IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.Rev.Pet.No. 493 of 2000()

CRA.7/1998 of SESSIONS COURT, THRISSUR
CC.246/1993 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA

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REVN. PETITIONER:

RAJAN,
S/O.ANDHIKADAN CHATHAN,
VATTAKOTTAI, KALLUR

BY ADV. SRI.P.VIJAYA BHANU
SMT.MINI JOHN PAREMALIL

RESPONDENTS:

STATE OF KERALA, REPRESENTED
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.2755/2000 IN CRL.R.P.No.493/2000

DISMISSED

SD/-K.R.UDAYABHANU, JUDGE

07/09/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.493 of 2000

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Dated this the 7th day of September, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 457and 379 I.P.C and stands sentenced to undergo rigorous imprisonment for one year for the offence under Section 457 I.P.C and rigorous imprisonment for six months for the offence under Section 379 I.P.C with direction that the sentences shall run concurrently.

2. The prosecution case is that on 29/08/1993, sometime in the midnight, the accused unlocked the door of the house of PW.1, house No.IX/599 of Alagappanagar Panchayat, committed lurking house trespass and snatched away the gold chain from the neck of the son of PW.1, who was sleeping inside (PW.2).

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 14, Exts.P1 to P8 and MO.1 gold chain. Defence examined DW.1. It is the prosecution version that the accused was arrested on 01/09/1993 having found attempting to sell MO.1 gold chain. PWs.4 and 7, the police constable and the Sub Inspector

respectively, who apprehended the accused has testified as to the same. PW.8, the owner of the jewellery has also deposed that the accused brought the gold chain to his outfit for sale.

4. The main contentions raised herein are that the complaint was lodged only on 01/09/1993, and that there is delay in lodging the F.I.S and that the MO.1 gold chain is not the same as mentioned in the F.I.S, i.e chethu thoradu fashion, as PW.8, the jewellery owner has stated that the gold chain is minumini fashion.

5. I find that DW.1, the goldsmith examined at the instance of the defence has stated on examining MO.1 that it is of thoradu fashion, and, hence, the above contention has no merits. The suggestion that the accused has brought his own chain to the jewellery shop for making ear rings also do not appear to be true, as PW.8 has deposed that the accused had brought the gold chain for sale. In the circumstances, I find no ground to disturb the findings of the court below. The conviction is only to be confirmed.

6. The learned counsel for the revision petitioner has sought for leniency pointing out that the matter is of the year 1993, that is about

14 years ago, and that the accused is a person residing near the house of the de facto complainant and that he is not a habitual offender, which is not disputed.

Considering the plea of the counsel for the petitioner, the conviction is confirmed and the sentence is modified to undergo simple imprisonment confined to the pre-trial detention already undergone and to pay a fine of rupees five thousand and in default to undergo simple imprisonment for one month. The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.493 of 2000

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O R D E R

7th September, 2007